

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

Ahern Rentals Inc.

Plaintiff,

v.

John Matthew Young,

Defendant.

Case No. 2:21-cv-02190-JAD-BNW

**ORDER**

By way of an emergency motion, Plaintiff seeks expedited discovery and an order to preserve evidence (in anticipation of a hearing for injunctive relief). ECF No. 7. Defendant opposes this motion. ECF No. 10.

**I. Background**

The allegations in this case arise from Defendant John Young's activities prior to leaving his employment at Ahern Rentals. Specifically, Young is accused of violating his contractual obligations to Ahern regarding the non-compete, non-solicitation, and non-disclosure agreement he signed while employed at Ahern.

**II. The Parties' Arguments**

Plaintiff argues there is good cause to expedite discovery in this case. Plaintiff argues that the information sought will assist the Court during the injunctive relief hearing, that the bulk of the information to support its request for injunctive relief is in Defendant's possession, and that the request is narrowly tailored.

Defendant argues that Plaintiff's motion should not have been filed on an emergency basis and that there is no good cause to expedite discovery. First, he notes that Plaintiff has been dilatory in seeking injunctive relief: Young was terminated in May 2021, Plaintiff learned of the

1 alleged conduct in August of 2021 and, yet, Plaintiff did not seek injunctive relief until December  
2 20, 2021. Next, Defendant argues that Plaintiff cannot show irreparable harm in the absence of  
3 expedited discovery, as Defendant is currently suspended from employment. In addition,  
4 Defendant argues that the discovery requests are not narrowly tailored and that it would be  
5 extremely burdensome for him to comply with these requests in a short period of time (as he will  
6 be in California for the holidays and may not have access to the requested discovery). Lastly,  
7 Defendant argues that it is not clear at this juncture whether the District of Nevada or the Western  
8 District of North Carolina will be the forum in which this matter is litigated. Given this  
9 uncertainty, he argues he should not be subject to duplicative discovery obligations.

### 10 **III. Analysis**

#### 11 **A. Emergency-Nature of the Motion**

12 Preliminary, while Plaintiff's delay in seeking injunctive relief is inconsistent with the  
13 notion of any emergency, the Court will exercise its discretion to resolve this matter on an  
14 expedited basis.

#### 15 **B. Request for Expedited Discovery**

16 "A party may not seek discovery from any source before the parties have conferred as  
17 required by Rule 26(f), except in a proceeding exempted from initial disclosures under Rule  
18 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order." Fed. R. Civ. P.  
19 26(d). Early discovery may be permitted by court order upon a showing of good cause. *Am.*  
20 *LegalNet, Inc. v. Davis*, 673 F. Supp. 2d 1063, 1066 (C.D. Cal. 2009). The party seeking  
21 expedited discovery bears the burden of showing good cause. *Id.* Because expedited discovery is  
22 not the norm, the movant must make a prima facie showing of the need for that expedited  
23 discovery. *Id.* A finding of good cause may be made where the need for expedited discovery, in  
24 consideration of the administration of justice, outweighs the prejudice to the responding party. *Id.*  
25 To make this determination, courts evaluate the reasonableness of the request in light of all the  
26 surrounding circumstances. *Id.* at 1067. At bottom, courts have "wide discretion" in determining  
27 whether the circumstances justify expedited discovery. *Semitool, Inc. v. Tokyo Electron Am., Inc.*,  
28

1 208 F.R.D. 273, 276 (N.D. Cal. 2002) (*citing Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir.  
2 1988)).

3 Here, the Court considers the fact that a hearing for injunctive relief has not yet been set,  
4 the fact that this request is being made right before the holidays, and the fact that Defendant may  
5 not be home (to obtain all the requested information). The Court finds that, accounting for all  
6 these circumstances, Plaintiff has demonstrated good cause to obtain *some* of the requested  
7 discovery on an expedited basis, as Plaintiff's need to obtain additional information before the  
8 hearing for injunctive relief outweighs any prejudice to Defendant. Of note, while Plaintiff may  
9 need to show irreparable harm will result to obtain injunctive relief, Plaintiff need not show  
10 irreparable harm to obtain expedited discovery.

11 Accordingly, the Court will allow Plaintiff to take a three-hour *virtual* deposition of  
12 Defendant. Given Defendant is in California (as opposed to his home state), the Court finds it is  
13 not reasonable to have him respond to the requests for productions (in Exhibit 5) or the  
14 interrogatories (in Exhibit 6). Nevertheless, the Court will order Defendant to familiarize himself  
15 with those requests and interrogatories so that he can readily answer questions at the upcoming  
16 deposition. The Court will also order him to research the answers to those requests and  
17 interrogatories from California to the extent that he can. For example, if he can remotely access  
18 information from California to obtain responsive information, he is ordered to do so.

19 While there are questions as to where this case will ultimately be litigated, a three-hour  
20 virtual deposition does not raise the types of concerns involved in the pursuit of full-fledged  
21 discovery.

22 Lastly, Defendant is already subject to the duty to preserve evidence. Thus, there is no  
23 need for any further order from this Court in that regard.

#### 24 **IV. Conclusion**

25 **IT IS THEREFORE ORDERED** that Plaintiff's emergency motion to expedite  
26 discovery (ECF No. 7) is GRANTED in part and DENIED in part as follows. Plaintiff shall be  
27 permitted to depose Defendant (*virtually*) three days (at the latest) prior to the date set for the  
28 hearing on injunctive relief. The deposition shall last no more than three hours. Defendant is to

1 familiarize himself with the contents of Plaintiff's Exhibits 5 and 6 and conduct as much research  
2 as possible to be ready to answer questions at his deposition.

3  
4 DATED: December 22, 2021

5   
6 BREND A WEKSLER  
7 UNITED STATES MAGISTRATE JUDGE  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28